

SEP 26 1978

MICHAEL RODAK, JR., CLERK

IN THE  
**Supreme Court of the United States**

OCTOBER TERM, 1978

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No. 77-753  
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INTERNATIONAL BROTHERHOOD OF TEAMSTERS,  
CHAUFFEURS, WAREHOUSEMEN AND HELPERS OF AMERICA,  
*Petitioner,*

v.

JOHN DANIEL,  
*Respondent.*

\_\_\_\_\_  
**On Writ of Certiorari to the United States Court of Appeals  
for the Seventh Circuit**  
\_\_\_\_\_

**MEMORANDUM FOR  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS  
IN SUPPORT OF MOTIONS FOR LEAVE TO FILE  
BRIEFS AMICI CURIAE**  
\_\_\_\_\_

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*Attorney for Petitioner*

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There are presently pending before the Court motions by the United States and by the American Federation of Labor and Congress of Industrial Organizations for leave to file briefs *amicus curiae* out of time. There is also pending a motion by the American Bar Association for reconsideration of the order denying it leave to file such a brief. For the reasons to be stated herein we

support the granting of those motions. We note also that the Securities and Exchange Commission filed a brief on respondent's side, nine days after respondent's brief was due and filed. The SEC has not moved for leave to file out of time; that failure might ordinarily militate against excusing its delay. However, we do not urge that the SEC's brief be rejected, and would treat the SEC as if it had submitted a motion for leave to file, which we would support.

We submit that the Brief of the United States, which represents the views of the Treasury and Labor Departments and the Pension Benefit Guaranty Corporation, the agencies vested by Congress with exclusive responsibility for administering the federal pension law, should be considered by the Court. We also believe, notwithstanding our disagreement with its position, that the views of the Securities and Exchange Commission should be before the Court. Moreover, because of the extraordinary potential ramifications of the decision under review, it appears that the briefs of the American Bar Association and the AFL-CIO would aid the Court, for they reflect the interest and experience of these important organizations. We note particularly that the AFL-CIO's brief comprehensively compares the disclosure scheme under the securities laws with those of the Employee Retirement Income Security Act of 1974 and its predecessor, the Welfare and Pension Plan Disclosure Act of 1958. That subject is addressed in the IBT's brief, but is far more fully developed in the AFL-CIO brief, whose concentration thereon had been anticipated by IBT counsel. It is also dealt with in the briefs on Respondent's side, and will therefore be discussed in the IBT's reply brief, which is in preparation. It would be convenient for counsel, and hopefully the Court, if the IBT's reply brief could incorporate by reference the AFL-CIO's discussion, and the regulations which are there quoted in detail. That

course would be unavailable if the AFL-CIO's brief is not properly before the Court.

Respondent, which obtained several extensions of time, and actually filed its brief on August 7, 1978 has not opposed the pending motions for leave to file and would not be prejudiced if they were granted. Respondent in fact has dealt with the AFL-CIO's brief, see Brief for Respondent, p. 10, n.20 and the brief for the SEC takes express issue with that of the United States, *e.g.*, pp. 51-52.

### CONCLUSION

For the foregoing reasons the motions of the United States and the American Federation of Labor and Congress of Industrial Organizations for leave to file briefs *amicus curiae* out of time, and the motion for reconsideration of the American Bar Association should be granted. The Securities and Exchange Commission should also be granted leave to file a brief *amicus curiae* out of time, notwithstanding its failure to file a motion.

Respectfully submitted,

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